

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.: 22-cv-20917-WILLIAMS

ENRIQUE MADRINAN,

Plaintiff,

v.

VE RESTAURANT GROUP LLC d/b/a  
BARSECCO/PAPERFISH, 1414 BRICKELL LLC,  
MIAMI DADE COUNTY and THE CITY OF MIAMI

Defendants.

**DEFENDANT VE RESTAURANT GROUP LLC'S d/b/a BARSECCO/PAPERFISH  
ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT**

Defendant, VE RESTAURANT GROUP LLC d/b/a BARSECCO/PAPERFISH, files its  
Answer and Affirmative Defenses to the Complaint.

**General Allegations**

1. Denied.
2. Defendant is without knowledge of the allegations in Paragraph 2.
3. Defendant is without knowledge of the allegations in Paragraph 3.
4. Denied.
5. Denied.

**Count I - Negligence Against the Defendant  
VE Restaurant Group LLC d/b/a Barsecco/Paperfish**

6. Paragraphs 1 to 5 above are realleged.
7. Admitted.
8. Denied.

Page 1

**COLE, SCOTT & KISSANE, P.A.**

COLE, SCOTT & KISSANE BUILDING - 9150 SOUTH DADELAND BOULEVARD - SUITE 1400 - P.O. BOX 569015 - MIAMI, FLORIDA 33256 - (305) 350-5300 - (305) 373-2294 FAX

CASE NO.: 22-cv-20917-WILLIAMS

- 9. Denied.
- 10. Denied.
- 11. Denied.
- 12. Denied.
- 13. Denied.
- 14. Denied.
- 15. Denied.
- 16. Denied.
- 17. Denied.
- 18. Denied.
- 19. Denied.
- 20. Denied.
- 21. Denied.

**Count V - Violation of Title III of the Americans with  
Disabilities Act (“ADA”) 42 U.S.C. 12181**

- 73. Paragraphs 1 to 5 above are realleged.
- 74. Denied.
- 75. Denied.
- 76. Defendant is without knowledge of the allegations in Paragraph 76.
- 77. Defendant is without knowledge of the allegations in Paragraph 77.
- 78. Defendant is without knowledge of the allegations in Paragraph 78.
- 79. Admitted.
- 80. Denied.

CASE NO.: 22-cv-20917-WILLIAMS

- 81. Denied.
- 82. Denied.
- 83. Denied.
- 84. Denied.
- 85. Denied.
- 86. Denied.
- 87. Denied.
- 88. Denied.
- 89. Denied.
- 90. Denied.
- 91. Denied.
- 92. Denied.
- 93. Denied.
- 94. Denied.
- 95. Denied.
- 96. Denied.
- 97. Denied.
- 98. Denied.
- 99. Denied.
- 100. Denied.
- 101. Denied.
- 102. Denied.
- 103. Denied.

CASE NO.: 22-cv-20917-WILLIAMS

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

126. Denied.

CASE NO.: 22-cv-20917-WILLIAMS

127. Denied.

128. Denied.

129. Denied.

130. Denied.

131. Denied.

132. Denied.

133. Denied.

134. Denied.

135. Denied.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

145. Denied.

146. Denied.

147. Denied.

**Affirmative Defenses**

1. Defendant is entitled to a set-off and reduction pursuant to Sections 768.31 and 768.76, Florida Statutes, and any other applicable law, for benefits Plaintiff has received, or is entitled to receive payment under, from a collateral source, potential tortfeasor or any other source.

2. Defendant has made good faith efforts to comply with the ADA requirements.

3. Plaintiff's claim of negligence fails because Plaintiff assumed the risks in navigating through the property while cognizant of the potential for self injury. This includes Plaintiff recklessly placing himself into the underlying circumstance.

4. Defendant states that Plaintiff's alleged damages resulted from independent, unforeseeable, superseding and/or intervening causes, including intentional acts by other persons, unrelated to any conduct of the Defendant.

5. Defendant states that Plaintiff has unclean hands through improper acts and omissions. This includes Plaintiff purposefully placing himself into the underlying circumstance with premeditated efforts to create this lawsuit for pecuniary gain.

6. Defendant states that the claims are barred pursuant to the doctrine of comparative fault. Any award of damages should proportionately be reduced by the extent of Plaintiff's and/or other Defendants' culpability.

7. Defendant states that it is entitled to list all *Fabre* defendants on the Verdict Form as such unknown third parties may be responsible for causing the alleged damaged.

8. Defendant intends to seek attorney fees and costs at the conclusion of this case pursuant to all applicable law including the ADA and Florida law.

CASE NO.: 22-cv-20917-WILLIAMS

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this day of May 2, 2022, a true and correct copy of the foregoing was filed with the Clerk of Southern District of Florida by using CM/ECF, which will send an automatic e-mail message to all parties registered with the e-Filing Portal system.

COLE, SCOTT & KISSANE, P.A.  
*Counsel for Defendant* VE RESTAURANT GROUP  
LLC d/b/a BARSECCO/PAPERFISH  
Cole, Scott & Kissane Building  
9150 South Dadeland Boulevard, Suite 1400  
P.O. Box 569015  
Miami, Florida 33256  
Telephone (786) 268-6415  
Facsimile (305) 373-2294  
Primary e-mail: alan.stlouis@csklegal.com  
Secondary e-mail: sanya.dhermy@csklegal.com  
Alternate e-mail: zusel.martin@csklegal.com

By: s/ Sanya Dhermy  
ALAN ST. LOUIS  
Florida Bar No.: 70751  
SANYA DHERMY  
Florida Bar No.: 1026434